

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 29th DAY OF FEBRUARY, 2012

BEFORE

THE HON'BLE MR. JUSTICE L NARAYANA SWAMY

M.F.A NO.20434/2010 (MV)

BETWEEN:

The General Manager
NWKRTC, Gokul Road
Hubli, represented by it's Chief Law Officer
NWKRTC, Central Office,
Gokul Road, Hubli.

... APPELLANT

(By Sri. C. B. Patil, Adv.)

AND:

1. Sri. Ninganagouda Sangnagouda Dyavanagoudar
Age: 51 years, Occ: Agri,
2. Kumari Shilpa,
D/o. Ninganagouda Dyavnagoudar
Age: 24 years, Occ: Nil

Both are resident of Yalavgi
Tq: Savanur, Dist: Haveri

... RESPONDENTS

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MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 26.09.2009 PASSED IN MVC NO.166/2008 ON THE FILE OF THE PRL. CIVIL JUDGE (SR.DN.) AND MEMBER, ADDL. MACT, HAVERI, AWADING THE COMPENSATION OF RS.3,13,000/- WITH INTEREST AT THE RATE OF 6% P.A., FROM THE DATE OF PETITION TILL REALISATION.

THIS APPEAL COMING ON FOR ORDERS THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

For the reasons stated in the affidavit, delay of 20 days in filing the appeal is condoned. Accordingly, Misc.Cvl. No.101997/2010 is allowed.

Appeal is filed by NWKRTC challenging the quantum of compensation awarded by the Prl. Civil Judge (Sr.Dn.) and M.A.C.T, Haveri in MVC No.166/2008 by its judgment dated 26.09.2009. The Tribunal has awarded a total compensation of Rs.3,13,000/- to the dependents of the deceased.

2. Heard learned Counsel for the appellant - insurance Company.

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3. The learned Counsel for NWKRTC submitted that the income taken by the Tribunal at Rs.3,000/- per month while calculating the compensation towards loss of dependency is on the higher side. There is negligence on the part of the deceased herself, but the same has not been considered by the Tribunal. Therefore, he submitted to reduce the compensation awarded.

4. The income of the deceased is taken at Rs.3,000/- per month. If $1/3^{\text{rd}}$ of the income is deducted towards personal expenses, Rs.2,000/- would enure to the benefit of the dependants. The Tribunal has applied multiplier 12. Following the Sarla Verma's judgment, 13 multiplier is adopted. Accordingly, if the compensation under the head of loss of dependency is recalculated, it would come to Rs.3,12,000/- (24000×13), and the same is awarded under the head of loss of dependency and the compensation under the other heads are confirmed. Award passed by the Tribunal is modified to that extent.

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5. In the light of the order, I do not find it necessary to issue notice to the respondents.

6. Accordingly, appeal stands dismissed. The amount in deposit be transmitted to MACT. In view of disposal of the main appeal, Misc.Cvl.No.100929/2010 does not survive for consideration and the same is disposed of.

Sd/-
JUDGE

gab/-